IN THE

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1965.

No. 1046.

PEOPLE OF THE STATE OF ILLINOIS ex rel. GEORGE MUSSO, Madison County Treasurer and Ex-Officio Collector of Taxes of Madison County, Illinois,
Appellant,

vs.

CHICAGO, BURLINGTON AND QUINCY RR. CO., CHICAGO & NORTHWESTERN RR. CO., GULF, MOBILE AND OHIO RR. CO., CHICAGO AND EASTERN ILLINOIS RR. CO., ILLINOIS CENTRAL RR. CO., NEW YORK CENTRAL RR. CO., NEW YORK, CHICAGO & ST. LOUIS RR. CO., WABASH RR. CO., PENNSYLVANIA RR. CO., ILLINOIS TERMINAL RR. CO., ALTON & SOUTHERN RR. CO., and TERMINAL RAILROAD ASSOCIATION OF ST. LOUIS,
Appellees.

On Appeal from the Supreme Court of Illinois.

BRIEF FOR THE ILLINOIS ASSOCIATION OF SCHOOL BOARDS AND THE ILLINOIS MUNICIPAL LEAGUE.

THE ILLINOIS ASSOCIATION OF SCHOOL BOARDS and
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BRIEF FOR ILLINOIS ASSOCIATION OF SCHOOL BOARDS AND ILLINOIS MUNICIPAL LEAGUE AS AMICI CURIAE IN SUPPORT OF JURISDICTIONAL STATEMENT AND IN OPPOSITION TO APPELLEES' MOTION TO DISMISS OR AFFIRM.

Illinois Association of School Boards and Illinois Municipal League, with leave of this Court, respectfully submit this brief in support of the appellant.

1. The Illinois Association of School Boards represents most of the school districts of Illinois. In recent years the number of school districts has decreased because of consolidation, from 12,600 to 1,600. As of 1961, there were 1,750,000 pupils enrolled in the public schools of Illinois, and 78,000 persons involved in the instruction of the pupils. For 1958-59, the net operating costs of the public schools were $596,985,991. Including funds for new equipment and for bonds and interest, the cost totaled $686,508,045 or $475 for each pupil. Including amounts for new buildings and grounds, the total cost was $804,469,494, or $559 per attendance pupil. State support was limited to items making up the operating costs of the schools, and amounted to about $107,000,000 or about 18% of the total. This state aid was less than 13% of all costs and less than 16% of costs excluding new buildings and grounds. Practically all the money which supports the public schools in Illinois comes from state and local sources and levies for school purposes generally amount to from 50-70% of all local property taxes. State appropriation for school purposes of "Common School Fund," "Special Education," "Vocational Education," "Transportation" and "School Lunch," increased from $54,929,816 for the 1945-1947 biennium to $361,000,000 for the 1959-1961 biennium. Property taxes for the schools in-

creased from $277,418,000 in 1948 to $628,816,000 in 1958. By 1966 these figures are of course higher. School taxes in Downstate Illinois increased 487% from 1945-1963, from $76,933,474 to $451,803,193. Statewide the increase was 429%, from $167,890,586 to $887,599,502. There are tax rate limits for many school levies in Downstate Illinois and expansion of needs has required and will require voter approval of increases in tax rates.

2. In December, 1965, the Illinois Education Association published "School Bond and Tax Referenda." Cook County was unable to supply data, so that the available data involves Downstate Illinois. The City of Chicago contains 50% of the public school pupils in Illinois and relies on rates set by the legislature rather than those set at local elections. About ⅔'s of state-assessed railroad property is in Downstate counties. There are many school districts downstate which have received 25-33 percent of their tax revenue from railroad property. One school district has received over 49% of its tax revenue from railroad property. An excessive shift of property tax burden to non-railroad property owners is disruptive of the educational system, now and in the future. For the period November 1, 1964-October 31, 1965, six referenda to increase the tax rate for operating the school buildings (or 32%) failed to obtain voter approval and 13 referenda (or 68%) passed. 40 educational fund proposals (36%) were defeated by the voters and 70 (64%) passed. 34 school building fund referenda, or 20%, were defeated and 136, or 80%, passed.

3. Illinois Municipal League, founded in 1914, a member of the National League of Cities, represents the cities, villages and incorporated towns of Illinois. In 1962, there were 287 cities, most of which are in Downstate Illinois. 35% of the population of Illinois lives in the Cities of Chicago and Rockford and the next largest city has a population only 3.6% as large as Chicago. 10.5% of the

total property taxes collected in Downstate Illinois went to cities and 9.7% to townships. In Cook County, 28.5% to cities and .4% to townships. Prices of goods and services purchased by municipal governments have risen faster than the prices of many other goods and services. In 1964 property taxes supplied 44.26% of municipal revenue. In 1962 there were 118 municipalities with populations of 2,500 to 4,999 and the per capita real property tax burden was $79.96. 160 municipalities had populations between 5,000-24,999 with a per capita real property tax burden of $105.17. 41 municipalities had populations of 25,000 and over and the per capita real property tax burden was $113.27. Municipalities operate under legislatively designated tax rate ceilings which can only be increased by referenda. In 1963, twenty cities and villages reported 25 referenda to increase tax rates for various purposes. The voters approved the tax increase only in 10 cases, or 40%. 9 were held for police protection, 8 for fire protection, 3 for general corporate purposes, 1 for water, 1 for garbage collection, and 1 for library purposes. 82 municipalities reported bond referenda. On 89 proposals reported, there was voter approval in almost 80% of the elections. 71 were approved and defeated. 33 of the 71 were for sewer construction, 23 for water, 11 for building. The proportion of property tax revenues from railroad property varies from municipality to municipality.

4. The case of *People ex rel. Korzen v. CB&Q*, 32 Ill. 2d 554 (1965), involved only the Burlington's taxes for 1957. The railroad was the appellant and presented four printed Abstract volumes of the record upon which the Supreme Court of Illinois decided the case. There is nothing in the Abstracts about the level of assessment of locally assessed property or about the valuation method by which the Department of Revenue certified multipliers to Cook County under the Full Value Legislation which went into

effect in 1946. The evidence in the case at bar does explain what happened after 1946 with regard to the equalization of locally assessed property by state administrative personnel. The evidence is important to an understanding of what happened to railroad assessments, and serves to show that the state administrations have been fair to the railroads.

Three briefs were filed in the *Korzen* case for the consideration of the Supreme Court of Illinois: two for the railroad and one for the People. The Briefs are concerned with evidence of a dozen or so railroad transactions. There is no emphasis on constitutional questions.

The case before the Supreme Court of Illinois from Cook County known as *Korzen* involved an appeal from a tax objection case involving the 1957 property assessment for the Burlington challenged for discrimination. *Amici curiae* state that the Supreme Court of Illinois in 1959 had refused to hold that the 1957 assessment for the Burlington was in excess of "fair cash value" in a direct appeal from the Director of Revenue's assessment. *CB&Q Ry. Co. v. Department of Revenue*, 17 Ill. 2d 376 (1957) The *Korzen* case was supposed to be a test case, and the interest of Cook County tax districts and taxpayers now relies on the Madison County case at the bar of this Court.

No attention to the method of valuation of locally assessed property and railroad property was given by counsel to the Supreme Court of Illinois in the *Korzen* case. Brief of Appellant, filed January 5, 1965; Brief of Appellee, filed February 16, 1965; Reply Brief for Appellant, filed March 5, 1965; Petition for *Amici Curiae*, filed March 1965; Objector's Answer to Suggestions in Petition of Illinois Municipal League and Illinois Association of School Boards Appearing as *Amicus Curiae*, filed March 17, 1965.

CONCLUSION.

Illinois Association of School Boards and Illinois Municipal League pray that the Supreme Court of the United States note jurisdiction and grant certiorari.

Respectfully submitted,

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